



STATE OF MINNESOTA  
PUBLIC UTILITIES COMMISSION

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DOCKET FILE COPY ORIGINAL  
(TDD) 612/297-1200

October 1, 1997

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 - M Street, N.W., Room 222  
Washington, D.C. 20554

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Re: In the Matter of Federal-State Joint Board on Universal Service, Forward-Looking  
Mechanism for High Cost Support for Non-Rural Local Exchange Carriers, CC  
Docket No. 96-45; 97-160 / PUC Docket No.: P-999/M-97-909

Dear Mr. Caton:

Enclosed please find the Minnesota Public Utilities Commission's (MPUC's) request for an extension of time to file its forward-looking economic cost study under paragraph 248 of the FCC's May 7, 1997, REPORT AND ORDER in the above-entitled docket.

We are asking for an extension from February 6, 1998 to June 6, 1998, to make sure we have the minimum time needed to develop and submit a quality study that accurately reflects the forward-looking economic costs of providing service in Minnesota.

The MPUC has already initiated a proceeding to determine costs pursuant to the FCC's May 7 Order. We would appreciate your expedited consideration of our request so that the parties and the Administrative Law Judge can establish a detailed schedule for filings, hearings and decision.

The MPUC appreciates your consideration of this matter. We look forward to working with the FCC in a cooperative effort to meet our mutual universal service responsibilities under the Federal Telecommunications Act of 1996 and to bring the benefits of competition to all consumers.

Sincerely,

  
Edward A. Garvey  
Chairman

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Federal-State Joint Board on )  
Universal Service )

Forward-Looking Mechanism )  
for High Cost Support for )  
Non-Rural LECs )

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CC Docket No. 96-45

CC Docket No. 97-160

**Minnesota Public Utilities Commission's  
Request for Extension of Time**

The Minnesota Public Utilities Commission (MPUC) hereby requests that its time to file cost studies pursuant to paragraph 248 of the FCC's REPORT AND ORDER in the above entitled docket be extended from February 6, 1998, to June 6, 1998.

On August 8, 1997, the MPUC elected to conduct its own forward-looking economic cost studies under paragraph 248 of the FCC's Order. See In the Matter of the State of Minnesota's Possible Election to Conduct Its Own Forward-Looking Economic Cost Study to Determine the Appropriate Level of Universal Service Support, Docket No. P-999/M-97-909, ORDER ELECTING TO CONDUCT MINNESOTA-SPECIFIC COST STUDY AND ESTABLISHING COMMENT DEADLINES (August 8, 1997).

On September 19, 1997, the MPUC initiated its proceeding to develop these forward-looking cost studies. A copy of the MPUC's Order initiating the proceeding is attached.

The time needed to complete the MPUC's proceeding may not allow the MPUC to submit the required cost studies by the February 6, 1998 deadline. The MPUC's proceeding promises to be highly controversial and complex, with at least seven parties participating. This proceeding will be further complicated by the need to coordinate it with the MPUC's ongoing proceedings to develop permanent unbundled network element prices as recommended by the FCC in paragraph 252 of its Order.

The MPUC currently has two cost proceedings for unbundled network elements, one applicable to US WEST, the other applicable to Contel of Minnesota, Inc. d/b/a GTE Minnesota (GTE). Hearings in the US WEST case are scheduled for the week of February 16, 1998. The ALJ report is expected April 24, 1998. The MPUC's final decision is anticipated in early June, 1998. Hearings in the GTE case are not expected to begin until May 4, 1998, with a final MPUC decision in August, 1998.

Extending the FCC deadline for Minnesota's universal service cost studies to June 6, 1998, would allow the MPUC to coordinate its determination of universal service costs with its proceedings to determine network element prices. A May 6 deadline would be particularly consistent with the time frames in the US WEST cost proceeding, which contemplates hearings in February, 1998, an ALJ decision the end of April, and a final MPUC decision the first week of June, 1998. An extension to June 6 would also allow the Commission to take notice of the May hearings scheduled in the GTE cost proceeding when making its final decision in the universal service cost case.

The MPUC views this proceeding as one of its most critical. This case will have a substantial impact on the MPUC's efforts to ensure affordable telephone service. It may also

affect the MPUC's efforts to facilitate competitive entry to the extent the costs developed in this docket match the costs developed for unbundled network elements.

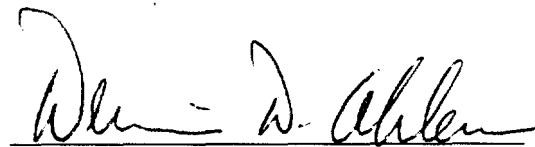
The MPUC expects to develop complete, sound and usable cost studies consistent with the FCC's criteria. A four month extension will allow the MPUC and the parties to give this case the careful, coordinated consideration it deserves, and produce cost studies that meet the MPUC's and the FCC's expectations.

The MPUC, therefore, respectfully requests an extension of the deadline for filing cost studies in the above-entitled matter from February 6, 1998, to June 6, 1998.

Dated: October 1, 1997

Respectfully submitted,

HUBERT H. HUMPHREY, III  
Attorney General  
State of Minnesota

A handwritten signature in dark ink, appearing to read "Dennis D. Ahlers", is written over a horizontal line.

DENNIS D. AHLERS  
Assistant Attorney General  
Atty. Reg. No. 154386

DAN M. LIPSCHULTZ  
Assistant Attorney General  
Atty. Reg. No. 168440

700 North Central Life Tower  
445 Minnesota Street  
St. Paul, Minnesota 55101  
(612) 296-0410

ATTORNEYS FOR MINNESOTA  
PUBLIC UTILITIES COMMISSION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey  
Joel Jacobs  
Marshall Johnson  
Gregory Scott  
Don Storm

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

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In the Matter of the State of Minnesota's  
Possible Election to Conduct Its Own  
Forward-Looking Economic Cost Study to  
Determine the Appropriate Level of Universal  
Service Support

ISSUE DATE: September 19, 1997

DOCKET NO. P-999/M-97-909

NOTICE AND ORDER FOR HEARING

**PROCEDURAL HISTORY**

On May 8, 1997 the Federal Communications Commission (FCC) issued a Report and Order and promulgated regulations implementing the universal service requirements of the federal Telecommunications Act of 1996 (the Act).<sup>1</sup> REPORT AND ORDER, FCC Docket No. 96-45, FCC 97-157 (Universal Service Order).

Among other things, the Universal Service Order established procedural and substantive guidelines for determining the levels of federal universal service support required in each state to meet the Act's objectives of ensuring that low income customers and customers in rural, insular, and high cost areas have access to telecommunications services comparable to the services available to urban customers and at comparable rates. Universal Service Order ¶¶ 199 *et seq.*, 47 U.S.C. § 254(b)(3).

The Report and Order determined that the cost of service in each state would be based on forward-looking economic cost studies. Universal Service Order ¶¶ 223 *et seq.* States could rely on their own cost studies, which must meet FCC standards, or they could choose to rely on the FCC to determine the cost of service based on the FCC's soon-to-be-developed forward-looking cost methodology. States intending to conduct their own cost studies were required to notify the FCC by August 15, 1997 and to file their studies by February 6, 1998. Universal Service Order ¶ 248.

On August 8, 1997 the Commission issued its ORDER ELECTING TO CONDUCT MINNESOTA-SPECIFIC COST STUDY AND ESTABLISHING COMMENT DEADLINES. In that Order the Commission elected to conduct a state-specific study and requested comments from the parties on the best procedural vehicle for doing so. The following parties filed comments: the Minnesota Independent Coalition, the Residential Utilities Division of the Office of the Attorney General, U S WEST Communications, Inc., AT&T Communications of the Midwest, Inc., the Minnesota Department of Public Service, MCI Telecommunications Corporation, Contel of Minnesota, Inc. d/b/a GTE Minnesota, and United Telephone Company of Minnesota and Sprint Communications Company L.P., filing jointly as Sprint.

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<sup>1</sup>Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, codified in scattered sections of Title 47, United States Code.

The matter came before the Commission on September 16, 1997.

## **FINDINGS AND CONCLUSIONS**

### **I. Jurisdiction and Referral for Contested Case Proceedings**

The Commission has jurisdiction over this proceeding under Minn. Stat. §§ 237.02, 237.16, and 47 U.S.C. § 254.

The Commission finds that producing a forward-looking cost study meeting FCC standards will be a fact-intensive process. While technical conferences, all-stakeholder work groups, and other collaborative devices may be helpful in developing the facts, ultimately there will be contested material facts and a need for formal evidentiary proceedings. The Commission will therefore refer the matter to the Office of Administrative Hearings for contested case proceedings, together with any collaborative processes that Office finds it useful or necessary to convene.

### **II. Issues to be Addressed**

The ultimate issue in this case is what the Commission should file with the FCC as its forward-looking economic cost study. The study must meet the requirements of the FCC's Universal Service Order and capture any cost characteristics unique to this state. The FCC's baseline requirements are set forth at ¶ 250 of the Universal Service Order, and those ten requirements will be core issues in the case.

#### **A. Rural Telephone Companies Not Bound**

As the Minnesota Independent Coalition pointed out, the FCC will not apply the cost studies coming out of the Universal Service Order to companies defined under the Act as "rural telephone companies." Universal Service Order ¶ 291. Instead, those companies will continue to receive support based on embedded, not forward-looking costs, from the existing federal universal service fund. This will continue for at least three more years. Universal Service Order ¶ 294.

This Commission, too, will therefore defer conducting a forward-looking economic cost study for rural telephone companies. Examining both rural and urban companies' costs, especially under present time constraints, would complicate the proceeding with little corresponding benefit. The Commission will therefore explicitly exempt rural telephone companies from being bound by this proceeding.

#### **B. One State-Wide Cost Study Required**

One of the issues raised in the parties' comments was whether this proceeding should yield one statewide forward-looking cost study or multiple studies, such as studies specific to particular companies. The Commission clarifies that the proceeding should produce one statewide forward-looking economic cost study, comprehensive and flexible enough to serve as the basis for calculating the amount of universal service support due each present and future eligible service provider.

### **III. Procedural Outline**

#### **A. Administrative Law Judge**

The Administrative Law Judge assigned to this case is Allen Giles. His address and telephone number are as follows: Office of Administrative Hearings, Suite 1700, 100 Washington Square, Minneapolis, Minnesota 55401-2138; (612) 349-2543.

#### **B. Hearing Procedure**

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57-14.62; the rules of the Office of Administrative Hearings, Minn. Rules, parts 1400.5100 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, Minn. Rules, parts 7829.0100-7829.3200. Copies of these rules and statutes may be purchased from the Print Communications Division of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155; (612) 297-3000.

Under these rules parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Under Minn. Rules, part 1400.7000, they may obtain subpoenas to compel the attendance of witnesses and the production of documents.

Any party intending to appear at the hearing must file a notice of appearance (Attachment A) with the Administrative Law Judge within 20 days of the date of this Notice and Order for Hearing. Failure to appear at the hearing may result in facts and issues being resolved against the party who fails to appear.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions. They should take note that any material introduced into evidence may become public data unless a party objects and requests relief under Minn. Stat. § 14.60, subd. 2.

Any questions regarding discovery under Minn. Rules, parts 1400.6700 to 1400.6800 or informal disposition under Minn. Rules, part 1400.5900 should be directed to Dan Lipschultz, Assistant Attorney General, 700 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101; (612) 297-1852.

The times, dates, and places of evidentiary hearings in this matter will be set by order of the Administrative Law Judge after consultation with the Commission and the parties.

#### **C. Intervention**

Current parties to this proceeding are the Minnesota Independent Coalition, the Residential Utilities Division of the Office of the Attorney General, U S WEST Communications, Inc., AT&T Communications of the Midwest, Inc., the Minnesota Department of Public Service;

MCI Telecommunications Corporation, Contel of Minnesota, Inc. d/b/a GTE Minnesota, and United Telephone Company of Minnesota and Sprint Communications Company L.P., filing jointly as Sprint.

Other persons wishing to become formal parties shall promptly file petitions to intervene with the Administrative Law Judge. They shall serve copies of such petitions on all current parties and on the Commission. Minn. Rules, part 1400.6200.

#### **D. Prehearing Conference**

A prehearing conference will be held on Monday, September 22, 1997 at 1:00 p.m. in the Small Hearing Room at the offices of the Commission. Parties and persons intending to intervene in the matter should attend the conference, prepared to discuss time frames and scheduling. Other matters which may be discussed include the locations and dates of hearings, discovery procedures, and similar issues.

#### **E. Time Constraints**

Under the terms of the Universal Service Order, the Commission must file its forward-looking economic cost study with the FCC on or before February 6, 1998.<sup>2</sup> Universal Service Order ¶ 248. The Commission asks the Administrative Law Judge to conduct contested case proceedings in light of these time constraints. Parties should note the deadline at the outset and be prepared for the expedited hearing schedule that time frame requires.

#### **F. Application of Lobbying Provisions**

The lobbying provisions of the Ethics in Government Act, Minn. Stat. §§ 10A.01 *et seq.* apply to utility rate setting proceedings. Persons appearing in this proceeding may be subject to registration, reporting, and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Minnesota Ethical Practices Board, telephone number (612) 296-1720, with any questions.

#### **G. Ex Parte Communications**

Restrictions on ex parte communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. Those restrictions and reporting requirements are set forth at Minn. Rules, parts 7845.7300-7845.7400, which all parties are urged to consult.

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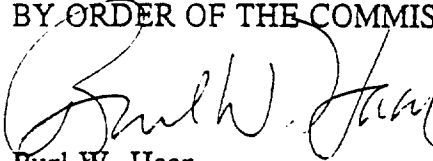
<sup>2</sup>The Commission, like several other states, is in the process of requesting an extension of time from the FCC. At this point there is no reasonable basis for gauging the likelihood that it will be granted.



## ORDER

1. A contested case proceeding shall be held to determine the terms of the forward-looking economic cost study submitted by Minnesota to the FCC under the FCC's Universal Service Order.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

A handwritten signature in dark ink, appearing to read "Burl W. Haar", is written over the typed name.

Burl W. Haar  
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (612) 297-4596 (voice), (612) 297-1200 (TTY), or 1-800-627-3529 (TTY relay service).

ATTACHMENT A

BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

Suite 1700

100 Washington Square

Minneapolis, Minnesota 55401-2138

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

Suite 350

121 Seventh Place East

St. Paul, Minnesota 55101-2147

In the Matter of the State of Minnesota's Possible Election to Conduct Its Own Forward  
Looking Economic Cost Study to Determine the Appropriate Level of Universal Service  
Support

MPUC Docket No. P-999/M-97-909

OAH Docket No.

NOTICE OF APPEARANCE

Name, Address, and Telephone Number of Administrative Law Judge:

Allen Giles, Office of Administrative Hearings, Suite 1700, 100 Washington  
Square, Minneapolis, Minnesota 55401-2138; (612) 349-2543

TO THE ADMINISTRATIVE LAW JUDGE:

You are advised that the party named below will appear at the above hearing.

NAME OF PARTY:

ADDRESS:

TELEPHONE NUMBER:

PARTY'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PARTY OR ATTORNEY: \_\_\_\_\_

DATE: \_\_\_\_\_

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[illegible]

I, Lynn E. Alexander, being first duly sworn, depose and say:

That at the City of St. Paul, County of Ramsey, and State of Minnesota, on the 1st day of October, 1997, I served one copy each of MINNESOTA PUBLIC UTILITIES COMMISSION'S REQUEST FOR EXTENSION OF TIME in the above-captioned matter by depositing in the United States Mail in the City of St. Paul, a true and correct copy thereof, properly enveloped, with first class postage prepaid and addressed to the persons shown below:

**Burl W. Haar, Executive Secretary  
MN Public Utilities Commission  
350 Metro Square Building  
121 East Seventh Place  
St. Paul, MN 55101-2147**

**Linda Chavez**  
**MN Department of Public Service**  
**200 Metro Square Building**  
**121 East Seventh Place**  
**St. Paul, MN 55101**

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MN Attorney General's Office  
1200 NCL Tower  
445 Minnesota Street  
St. Paul, MN 55101

Jeff Oxley  
MN Attorney General's Office  
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Michael J. Bradley  
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Sprint/United Telephone Company  
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Tom Londgren  
U S WEST Communications  
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Gregory Merz  
Gray, Plant, Mooty, Mooty & Bennett  
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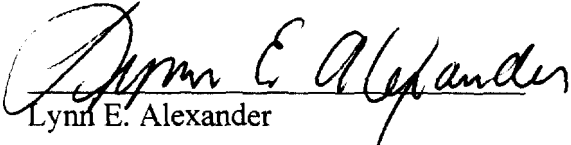
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Donald Low  
Sprint Communications  
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Kansas City, MO 64114

The Honorable Steve M. Mihalchick  
Administrative Law Judge  
Office of Administrative Hearings  
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Minneapolis, MN 55401-2138

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U S WEST Communications  
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Minneapolis, MN 55402

John B. Van de North  
Briggs and Morgan  
2200 First National Bank Building  
St. Paul, MN 55101

  
Lynn E. Alexander

Subscribed and sworn to before me this  
1st day of October, 1997

